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ORIGINAL
FILED

DISTRICT COURT OF GUAM

APR 27 2007

MARY L.M. MORAN
CLERK OF COURT

FILED

DISTRICT COURT OF GUAM

APR 24 2007

MARY L.M. MORAN
CLERK OF COURT

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10 **IN THE UNITED STATES DISTRICT COURT**
11 **FOR THE TERRITORY OF GUAM**

12
13 UNITED STATES OF AMERICA,
14 Plaintiff,
15 vs.
16 EDWARD M.C. GUERRERO,
17 Defendant.

CRIMINAL CASE NO. 07-00022

AMENDED
PLEA AGREEMENT

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19 Pursuant to Rule 11(c)(1)(B), the United States and the defendant, EDWARD M.C.
20 GUERRERO, enter into the following plea agreement:

21 1. The defendant, EDWARD M.C. GUERRERO agrees to enter a guilty plea to Count II
22 of an Indictment charging him with Accessing Device Fraud, in violation of Title 18, United
23 States Code, Section 1029.

24 In exchange for the defendant's guilty plea to Count II of the Indictment, the government
25 agrees to dismiss Count I of the Indictment upon sentencing. The government will recommend

1 that defendant receive the low end of the sentencing guidelines, a fine, and credit for time
2 served, if any.

3 2. The defendant understands that the maximum sentence for Accessing Device Fraud in
4 an amount more than \$1,000.00, in violation of 18 U.S.C. § 1029, as a Class C felony as
5 specified in 18 U.S.C. § 3559, is imprisonment for not more than ten years and a maximum fine
6 of \$250,000.00, together with any restitution as the court may order, and a \$100 special
7 assessment fee as set forth in 18 U.S.C. § 3013. Any sentence of incarceration may include a
8 term of supervised release of not more than three years as set forth in 18 U.S.C. ^{§ 3583}§ 3583(b)(2). If
9 the court revokes a sentence of supervised release, the court may incarcerate the defendant up to
10 an additional term of not more than two year. The \$100 special assessment fee must be paid
11 upon sentencing.

12 If defendant is financially unable to immediately pay the fine in full, defendant agrees to
13 make a full disclosure of his financial status to the United States Attorney's Office by completing
14 a Financial Disclosure Form (OBD-500) for purposes of fixing a monthly payment schedule.
15 Defendant understands that, by law, interest accrues on any remaining balance of the debt.

16 3. The defendant understands that to establish a violation of Accessing Device Fraud, in
17 violation of 18 United States Code, Section 1029, the government must prove each of the
18 following elements beyond a reasonable doubt:

19 First, the defendant knowingly used an unauthorized access device, e.g. a credit card, at
20 any time during a one-year period;

21 Second, by using the unauthorized access devices during that period, the defendant
22 obtained things of value, their value together totaling \$1,000 or more during that period;

23 Third, the defendant acted with the intent to defraud; and

24 Fourth, the defendant's conduct in some way affected commerce between one state and
25 another state, or between a state or the United States and a foreign country.

- 1 a. The nature and elements of the charge ~~and the mandatory minimum penalty provided~~
2 ~~by law, if any,~~ and the maximum possible penalty provided by law;
- 3 b. His right to be represented by an attorney;
- 4 c. His right to plead not guilty and the right to be tried by a jury and at that trial, the right
5 to be represented by counsel, the right to confront and cross-examine witnesses against him, and
6 the right not to be compelled to incriminate himself, that is, the right not to testify;
- 7 d. That if he pleads guilty, there will not be a further trial of any kind on the charges to
8 which such plea is entered so that by entering into the plea agreement, he waives, that is, gives
9 up, the right to a trial;
- 10 e. That, upon entry of a plea of guilty, or thereafter, the Court may ask him questions
11 about the offenses to which he has pled, under oath, and that if he answers these questions under
12 oath, on the record, his answers may later be used against him in a prosecution for perjury or
13 false statement if an answer is untrue;
- 14 f. That he agrees that the plea agreement is voluntary and not a result of any force,
15 threats or promises apart from his plea agreement;
- 16 g. That he reads, writes and speaks the English language and has no need for an
17 interpreter;
- 18 h. That he has read the plea agreement and understands it; and

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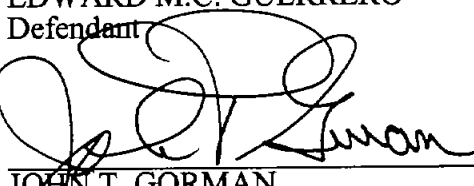
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1 i. The Defendant is satisfied with the representation of his lawyer and feels that his
2 lawyer has done everything possible for his defense.

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4 DATED: 4.17.07


EDWARD M.C. GUERRERO
Defendant

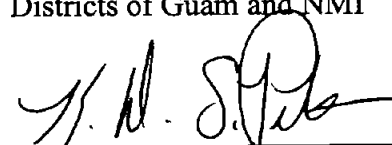
6
7 DATED: 4/17/07


JOHN T. GORMAN
Attorney for Defendant


10 LEONARDO M. RAPADAS
United States Attorney
Districts of Guam and NMI

12
13 DATED: 4/24/07

By:


KRISTIN D. ST. PETER
Special Assistant U.S. Attorney

15
16 DATED: 4/24/07


JEFFREY J. STRAND
First Assistant U.S. Attorney